

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Jimmie Dale Bryant,)	Civil Action No.: 4:11-cv-02254-RBH
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Trexler Trucking, Inc.,)	
)	
Defendant.)	
_____)	

This matter comes before the Court on Plaintiff's Motion to Resolve Objections as to Deposition Testimony to be Offered at Trial [Doc. # 95]. Having thoroughly reviewed the objections, deposition testimony at issue, and the applicable evidentiary and procedural rules, the Court rules on the parties' respective designations and objections as indicated in the attachment.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
March 5, 2013

DEPOSITION DESIGNATION FORM

DEPONENT NAME: STEPHANIE MONTGOMERY, MDDATE OF DEPOSITION: November 19, 2012OFFERING PARTY: PLAINTIFF

<u>Plaintiff</u> [party] DESIGNATION	<u>Defendant</u> [party] OBJECTION EXPLAIN BASIS OF	<u>Defendant</u> [party] COUNTER DESIGNATION	_____ " Court's Ruling "
Page 4 Lines 1-25	No objection.	Page _____ Lines _____ - _____	
Page 5 Lines 1-25	No objection.	Page _____ Lines _____ - _____	
Page 6 Lines 1-25	No objection.	Page _____ Lines _____ - _____	
Page 7 Lines 1-25	No objection.	Page _____ Lines _____ - _____	
Page 8 Lines 1-25	No objection.	Page _____ Lines _____ - _____	
Page 9 Lines 1-25	No objection.	Page _____ Lines _____ - _____	
Page 10 Lines 1-25	No objection.	Page _____ Lines _____ - _____	
Page 11 Lines 1-25	No objection.	Page _____ Lines _____ - _____	
Page 12 Lines 1-25	Object to Lines 20 - 25. Hearsay. Best evidence rule. Conway records speak for themselves	Page _____ Lines _____ - _____	Denied.

Page 13 Lines 1- 16; 18-25	Object to Lines 1-16 & 18-25. Hearsay. Best evidence rule. Conway records speak for themselves.. Answer goes beyond transferring diagnosis. Question suggestive and leading.	Page 13 Lines 17	Denied.
Page 14 Lines 1-5; 7-25	Object to Lines 1-5 & 7-25. Hearsay. Best evidence rule. Conway records speak for themselves. Answer goes beyond transferring diagnosis. Question suggestive and leading	Page 14 Lines 6	Denied.
Page 15 Lines 1-25	Object to Lines 1-4. Hearsay. Best evidence rule. Conway records speak for themselves. Answer goes beyond transferring diagnosis. Question suggestive and leading.	Page Lines	Denied.
Page 16 Lines 1-25	No objection.	Page Lines	
Page 17 Lines 1-14; 16-25	Object Lines 13-14 & 16-25. Leading question and answer to leading question.	Page 17 Lines 15	Denied.
Page 18 Lines 1-25	Object Lines 1-12. Answer to leading question.	Page Lines	Denied.
Page 19 Lines 1-25	No objection.	Page Lines	
Page 20 Lines 1-25	No objection.	Page Lines	
Page 21 Lines 1-25	No objection except as to Exhibit 1 to deposition being used for anything other than demonstrative purposes in deposition with comments to be redacted. Cumulative to testimony.	Page Lines	Granted to the extent Exhibit 1 is being offered into evidence, as it was not offered as such during the deposition. Denied as to all other grounds.
Page 22 Lines 1-25	No objection except as to Exhibit 2 to deposition being used for anything other than demonstrative purposes in deposition with comments to be redacted. Cumulative to testimony	Page Lines	Granted to the extent Exhibit 2 is being offered into evidence, as it was not offered as such during the deposition. Denied as to all other grounds.
Page 23 Lines 1-25	No objection.	Page Lines	
Page 24 Lines 1-25	No objection.	Page Lines	

Page 25 Lines 1-25	No objection.	Page Lines	
Page 26 Lines 1-25	No objection.	Page Lines	
Page 27 Lines 1-25	No objection.	Page Lines	
Page 28 Lines 1-25	No objection.	Page Lines	
Page 29 Lines 1-25	No objection.	Page Lines	
Page 30 Lines 1-12; 14-25	Object Lines 1-12 & 14-25. Leading question/answer to leading question..	Page 30 Lines 12	Denied.
Page 31 Lines 1-25	Object Lines 1-20. Answer to leading question. Object to Exhibit 2 being used for anything other than demonstrative purposes in deposition with comments to be redacted. Cumulative to testimony.	Page Lines	Granted to the extent Exhibit 2 is being offered into evidence, as it was not offered as such during the deposition. Denied as to all other grounds.
Page 32 Lines 1-25	No objection.	Page Lines	
Page 33 Lines 1-25	No objection.	Page Lines	
Page 34 Lines 1-25	No objection except as to Exhibit 8 to deposition being used for anything other than demonstrative purposes in deposition with comments to be redacted. Cumulative to testimony	Page Lines	Granted to the extent Exhibit 8 is being offered into evidence, as it was not offered as such during the deposition. Denied as to all other grounds.
Page 35 Lines 1-25	No objection.	Page Lines	
Page 36 Lines 1-25	No objection.	Page Lines	
Page 37 Lines 1-25	Object Lines 21-25. Admittedly outside of witness' expertise.	Page Lines	Denied.
Page 38 Lines 1-25	Object Lines 1-19. Admittedly outside of witness' expertise.	Page Lines	Denied.
Page 39 Lines 1-25	No objection.	Page Lines	
Page 40 Lines 1-25	No objection.	Page Lines	

Page 41 Lines 1-12; 14-25	Object lines 10-25. Leading question and answer to leading question.	Page 41 Lines 13	Denied.
Page 42 Lines 1-25	Object lines 1-25. Answer to leading question.	Page Lines	Denied.
Page 43 Lines 1-20; 22-25	Object Lines 1-14. Answer to leading question. Object Lines 19-20. Leading and suggestive question. Object Lines 22-25. Answer to leading and suggestive question.	Page 43 Lines 21	Denied.
Page 44 Lines 1-25	Object Lines 1-21. Answer to leading and suggestive question.	Page Lines	Denied.
Page 45 Lines 1- 25	No objection.	Page Lines	
Page 46 Lines 1-25	No objection.	Page Lines	
Page 47 Lines 1-25	No objection.	Page Lines	
Page 48 Lines 1-25	No objection.	Page Lines	
Page 49 Lines 1-19; 21-25	Object Lines 14-19. Confusing, suggestive question that is outside of witness' expertise as only managed care and even so, could only state as of that time but still outside area of expertise. Object Lines 21-25 as answer to suggestive/leading question that is outside of witness' expertise and even if it were, she could only state as of that date. Also, how a person responds differs from person to person so answer not specific to Plaintiff.	Page 49 Lines 20	Denied.
Page 50 Lines 1-25	Object Lines 1-25 as answer to suggestive/leading question that is outside of witness' expertise and even if it were, she could only state as of that date. Also, how a person responds differs from person to person so answer not specific to Plaintiff so irrelevant.	Page Lines	Denied.

Page 51 Lines 1-25	Object Lines 1-25 as answer to suggestive/leading question that is outside of witness' expertise and even if it were within expertise, she could only state as of that date. Also, how a person responds differs from person to person so answer not specific to Plaintiff so irrelevant.	Page Lines	Denied.
Page 52 Lines 1-13 (@involved)	Object Lines 1-2 as answer to suggestive/leading question that is outside witness' expertise and even it were within expertise, she could only state as of that date. Also, how a person responds differs from person to person so answer not specific to Plaintiff so irrelevant. No objection to Lines 3-13 as long as stops at word, "involved" as following discussion relates to insurance.	Page Lines	Denied, but there shall be no mention of insurance.
Page 52 Lines 20 (@ "but") - 25	No objection provided testimony starts with word, "But" as that which precedes it references insurance.	Page Lines	Granted, as the parties agree.
Page 53 Lines 1-12; 14-25	Object Lines 1-12 and 14-25. Outside area of expertise. Cannot say how Plaintiff will respond to a reasonable degree of medical certainty so irrelevant. Object to the use of words, "scrambled egg" as inflammatory and prejudicial. Also, response to improper question.	Page 53 Lines 13	Denied.
Page 54 Lines 1-25	Object Lines 1-2 as answer to improper question.	Page Lines	Denied.
Page 55 Lines 1-10; 12-25	Object Lines 1-10 and 12-25. Witness stated she could not answer question without looking through all of the physical therapy notes and then counsel asking leading question if there was anything to suggest Plaintiff was not participatory. Remaining part is answer to improper leading question without foundation as she had not re-reviewed all of the therapy records.	Page 55 Lines 11	Granted.

Page 56 Lines 1-24	Object Lines 1-3 as improper question and improper foundation as witness said she would need to look at records to answer.	Page Lines	Granted.
Page 57 Lines 19-25	Object Lines 19-21. Question makes counsel seem overly willing to be helpful when simply common practice. Irrelevant testimony.	Page Lines	Denied.
Page 58 Lines 1-25	No objection.	Page Lines	
Page 59 Lines 1-25	No objection.	Page Lines	
Page 60 Lines 1-10; 11-25	Object Lines 7-15 as unresponsive to question. Did not even allow attorney to complete question. Volunteered information beyond what intended scope of question was. No independent knowledge. Admitted reliance on others.	Page Lines	Denied.
Page 61 Lines 1-25	Object Lines 17-21. Irrelevant.	Page Lines	Denied.
Page 62 Lines 1-20	No objection.	Page 62 Lines 21-25	
Page 63 Lines 1-25	Object Lines 19-25. Irrelevant.	Page Lines	Denied.
Page 64 Lines 1-18 & 20-25	No objection.	Page 64 Lines 19	
Page 65 Lines 1-4; 6-25	No objection.	Page 65 Lines 5	
Page 66 Lines 1-16	No objection.	Page 66 Lines 17-25	
Page 67 Lines 23-25	No objection.	Page Lines	
Page 68 Lines 1-25	No objection.	Page Lines	
Page 69 Lines 1-25	No objection.	Page Lines	
Page 70 Lines 1-25	No objection.	Page Lines	
Page 71 Lines 1 - 25	No objection.	Page Lines	
Page 72 Lines 1- 25	No objection.	Page Lines	

Page 73 Lines 1-25	No objection.	Page Lines	
Page 74 Lines 1-25	No objection.	Page Lines	
Page 75 Lines 1-25	No objection.	Page Lines	
Page 76 1-25	No objection.	Page Lines	
Page 77 Lines 1-25	No objection.	Page Lines	
Page 78 Lines 1-25	No objection.	Page Lines	
Page 79 Lines 1-25	No objection.	Page Lines	
Page 80 Lines 1-25	No objection.	Page Lines	
Page 81 Lines 1-25	No objection.	Page Lines	
Page 82 Lines 1-25	No objection.	Page Lines	
Page 83 Lines 1-25	No objection.	Page Lines	
Page 84 Lines 1-25	No objection.	Page Lines	
Page 85 Lines 1-25	No objection.	Page Lines	
Page 86 Lines 1-25	No objection.	Page Lines	
Page 87 Lines 1-25	No objection.	Page Lines	
Page 88 Lines 1-25	No objection.	Page Lines	
Page 89 Lines 1-25	Object Lines 9-25 because contains information that is incorrect and could be misleading to jury. Witness unsure of answer so speculative.	Page Lines	Denied.
Page 90 Lines 1-25	Object Lines 1-11 because contains information that is incorrect and could be misleading to jury. Witness unsure of answer so speculative.	Page Lines	Denied.

Page 91 Lines 1-3; 13-25	No objection.	Page Lines	
Page 92 Lines 1-15	No objection.	Page Lines	

DEPOSITION DESIGNATION FORM

DEPONENT NAME: STEPHANIE MONTGOMERY, MDDATE OF DEPOSITION: November 19, 2012OFFERING PARTY: DEFENDANT

Defendant [party] DESIGNATION	Plaintiff [party] OBJECTION EXPLAIN BASIS OF	[party] COUNTER DESIGNATION	" "" " Court's Ruling ""
Page/Line <u>57/22</u> -- Page/Line <u>60/6</u>	no objection	Page _____ Lines _____ - _____	
Page/Line <u>60/16</u> -- Page/Line <u>61/16</u>	no objection	Page _____ Lines _____ - _____	
Page/Line <u>61/22</u> -- Page/Line <u>62/22</u>	objects to 62/21-22 involves seat belts	Page _____ Lines _____ - _____	Granted.
Page/Line <u>62/24</u> -- Page/Line <u>63/18</u>	object to 62/24 - is answer not question	Page _____ Lines _____ - _____	Granted.
Page/Line <u>64/20</u> -- Page/Line <u>65/4</u>	no objection	Page _____ Lines _____ - _____	
Page <u>65</u> Lines <u>6</u> - <u>8</u>	no objection	Page _____ Lines _____ - _____	
Page <u>65</u> Lines <u>12</u> - <u>14</u>	no objection	Page _____ Lines _____ - _____	
Page/Line <u>65/16</u> -- Page/Line <u>67/12</u>	object to 66/17-67/22 calls for speculation by the witness	Page _____ Lines _____ - _____	Denied.
Page <u>67</u> Lines <u>14</u> - <u>Ø</u>	objects to 67/14-22 calls for specu lation by doctor	Page _____ Lines _____ - _____	Denied.

Page/Line <u>67/16</u> -- Page/Line <u>69/19</u>	objects to 67/16-22 calls for speculation by doctor	Page _____ Lines _____ - _____	Denied.
Page/Line <u>73/19</u> -- Page/Line <u>82/5</u>	no objection	Page _____ Lines _____ - _____	
Page/Line <u>82/23</u> -- Page/Line <u>83/20</u>	no objection	Page _____ Lines _____ - _____	
Page/Line <u>86/15</u> -- Page/Line <u>89/8</u>	no objection	Page _____ Lines _____ - _____	
Page/Line <u>90/13</u> -- Page/Line <u>91/3</u>	no objection	Page _____ Lines _____ - _____	
Page/Line <u>92/21</u> (start with "I wanted to ask...") -- Page/Line <u>94/24</u>	objection calls for speculation. the doctor is not looking at a	Page _____ Lines _____ - _____	Denied.

current CT Scan of the
Plaintiff. She says
this but the speculation still exists.